

FRAUD

Contract Irregularities.

OGC Has Reviewed

12 January 1950

MEMORANDUM FOR: STANDARD-VACUUM OIL COMPANY

SUBJECT: Frauds on the Government

1. You have requested our opinion whether a proposed agreement between Standard-Vacuum and the Government concerning rebates on purchase of gasoline could subject Standard-Vacuum to prosecution under Title 18, U. S. Code, Section 495. That Section provides substantially as follows. Whoever falsely makes a contract or other writing for the purpose of obtaining money from the government, or whoever publishes such a false writing with intent to defraud the United States, or whoever presents such a writing in relation to any claim with intent to defraud the United States shall be fined \$1,000 or imprisoned up to five years or both (emphasis ours).

2. It is quite clear that the whole evil towards which this Section is directed is intentional fraud on the Government by use of false documents, i.e., those which the claimant knows to be false but which the Government believes to be true. Under no circumstances could a document prepared with the full knowledge of the appropriate Government officials and at their request, and which states rights and obligations which are agreed to by the Government, be the basis for prosecution under this Section.

3. Specifically in the gasoline agreement submitted for review, the rights and obligations are stated clearly and openly. Any false vouchers, receipts, or statements made in connection with payments under this contract could subject the company to prosecution, but the document itself could not be brought under the prohibitions of the Act.

4. For your information, the above opinion can be rendered with authority inasmuch as all the documents, vouchers, receipts, and other financial statements in connection with this arrangement are within the sole control of this Agency and are not subject to review by other offices or agencies of the Government.

LAWRENCE R. HOUSTON  
General Counsel  
Legal Staff